

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

GENARO GARCIA LUNA,

Defendant.

* * * * *

Case No. 19-CR-576 (BMC)

Brooklyn, New York

January 3, 2020

TRANSCRIPT OF CRIMINAL CAUSE FOR ARRAIGNMENT
BEFORE THE HONORABLE PEGGY KUO
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Government:

ERIN REID, ESQ.
Asst. United States Attorney
United States Attorney's Office
271 Cadman Plaza
Brooklyn, NY 11201

For the Defendant:

CESAR DE CASTRO, ESQ.
The Law Firm of Cesar de
Castro, P.C.
111 Fulton Street - 602
New York, NY 10038

Proceedings recorded by electronic sound recording,
transcript produced by transcription service.

Fiore Reporting and Transcription Service, Inc.
4 Research Drive, Suite 402
Shelton, Connecticut 06484 (203)929-9992

1 (Proceedings commenced at 2:33 p.m.)

2 THE CLERK: Criminal cause for arraignment, docket
3 no. 19-CR-576, USA vs. Genaro Luna Garcia. Counsel, please
4 state your name for the record.

5 MS. REID: Good afternoon, Your Honor. Erin Reid
6 and Ryan Harris for the government.

7 MR. DeCASTRO: For Mr. Luna, Cesar DeCastro. Good
8 afternoon, Your Honor.

9 THE COURT: Good afternoon.

10 THE CLERK: And we also have Spanish interpreter
11 Maristella Verastagui, previously sworn.

12 THE COURT: Mr. Genaro Garcia Luna, the purpose of
13 the proceeding today is to make sure you understand your
14 rights, what you're charged with (indiscernible) pending
15 your trial while released on bail.

16 You have the right to remain silent. You don't
17 have to make any statements. Any statements you do make
18 could be used against you.

19 If you make any statements, you don't have to make
20 any more. If you start to make a statement, you could stop at
21 any time.

22 Do you understand?

23 THE DEFENDANT: Yes, I do.

24 THE COURT: You have the right to an attorney. If
25 you cannot afford one, the court will appoint one for you.

1 I understand that you will have retained counsel.
2 Is that right, Mr. DeCastro?

3 MR. DeCASTRO: Not certain yet, Your Honor.

4 THE COURT: Not certain. Well --

5 MR. DeCASTRO: I think we should proceed as if I'm
6 continuing with the case.

7 THE COURT: Okay. I do not have a financial
8 affidavit. Was one submitted?

9 MR. DeCASTRO: I don't know. Normally that's not -
10 -

11 THE COURT: Okay.

12 MR. DeCASTRO: I don't know.

13 THE COURT: So what I'll do is I'll appoint you for
14 purposes of today's proceeding and if the defendant wants to
15 have appointed counsel for other proceedings, then he needs
16 to submit a financial affidavit so I can determine whether
17 he's eligible, okay?

18 MR. DeCASTRO: Yes.

19 THE COURT: Mr. Garcia Luna, you have been charged
20 by a grand jury with international cocaine distribution
21 conspiracy, conspiracy to distribute and possess with intent
22 to distribute cocaine, conspiracy to import cocaine and
23 making false statements.

24 Did you receive a copy of the indictment?

25 MR. DeCASTRO: Yes, I did.

1 THE COURT: Did you have a chance to talk with your
2 lawyer about it?

3 MR. DecASTRO: Yes.

4 THE COURT: Do you understand what you're being
5 charged with?

6 MR. DeCASTRO: Yes.

7 THE COURT: Do you want the charges read out loud
8 or do you waive public reading of the charges?

9 MR. DeCASTRO: No. Thank you.

10 THE COURT: All right. How do you plead to the
11 charges in the indictment; guilty or not guilty?

12 MR. DeCASTRO: Not guilty.

13 THE COURT: All right. So Mr. DeCastro, how would
14 you like to proceed today?

15 MR. DeCASTRO: Your Honor, we're going to consent
16 to detention at this time without prejudice to application in
17 the future.

18 THE COURT: All right. And is that because you
19 don't have a bail package available?

20 MR. DeCASTRO: That's correct, Judge. And I was
21 just contacted about the case this morning. I've just met
22 with him. We are in the process of trying to put together a
23 bail package and discussed that, of course, with the
24 government.

25 THE COURT: All right. And what's the government's

1 position on this?

2 MS. REID: Your Honor, we are asking for a
3 detention. It's our position that the defendant poses an
4 unacceptable risk of flight. In addition, Pretrial Service
5 is recommending detention, Your Honor. And in light of the
6 fact that defendant does not have a bond package at this
7 time, detention is the government's request.

8 In addition, the government filed a lengthy
9 detention memo on December 10th, 2019 summarizing our
10 position. I'm happy to go through some of those points, Your
11 Honor.

12 If I could just briefly note a few of the
13 highlights of our letter. The highlights in this case are
14 extremely serious.

15 The defendant is charged with abusing his high
16 ranking official position in Mexico to help the Sinaloa drug
17 cartel trafficking cocaine to the United States between 2001
18 and 2012 in exchange for multi-million dollars in bribes. He
19 permitted that cartel, which is one of the most violent
20 criminal organizations in the world, to operate with
21 impunity.

22 And after coming to the United States in 2012 he
23 applied to become a U.S. citizen in 2018 and he made
24 materially false statements in his application.

25 He's charged with offenses that -- three of which

1 carry a mandatory minimum term of ten years in prison, as
2 well as with making false statements.

3 In light of the drug trafficking offenses, Your
4 Honor, this is a presumption case under Title 18 of the
5 United States Code Section 3142(e).

6 And, again, it's the government's position the
7 defendant cannot bear his burden of showing he's not a flight
8 risk.

9 In light of the serious charges, the extensive
10 personal fortune that the defendant amassed, his contacts
11 with Mexico, including his frequent travel as recent as
12 November, 2019, he traveled to Mexico, and his contacts with
13 high level Sinaloa cartel members and corrupt government
14 officials, it's the government's position that he should be
15 detained pending trial.

16 THE COURT: All right. And Mr. DeCastro, is there
17 anything you want to address today or you want to wait?

18 MR. DeCASTRO: No, Judge. That's on consent. At
19 this time, obviously, we disagree with his risk of flight.
20 The government has his passport and any travel documents he
21 has. His family is here. He has children that are in school
22 here in the United States.

23 So we don't agree with that at this stage but we
24 are consenting to detention and we are in the process of
25 putting together a bail application.

1 THE COURT: Okay. All right.

2 So in light of the fact that this is a presumption
3 case, I find that the defendant has not put forth any
4 condition, or combination of conditions of release that will
5 reasonably assure the safety of the community of the
6 appearance of the defendant in further proceedings.

7 So accordingly I will detain him, but I will grant
8 leave for there to be -- for this issue to be reopened once a
9 bail package is put together and presented.

10 I see here also that there is an order of
11 excludable delay. And Ms. Reid, can you tell me about the
12 basis for this?

13 MS. REID: Yes, Your Honor.

14 We're asking the court to exclude time for the
15 purposes of negotiations regarding a potential disposition
16 short of trial and in the interests of justice we ask that
17 the court grant that application.

18 THE COURT: Okay. And Mr. DeCastro?

19 MR. ROHBACK: I'm (indiscernible), Your Honor.

20 THE COURT: And this is signed by you and your
21 client?

22 MR. ROHBACK: It is signed by my client as well.
23 I've explained it to him. We've discussed it and I went over
24 it with him in Spanish.

25 THE COURT: All right.

1 Mr. Garcia Luna, under the Speedy Trial Act you're
2 entitled to have a trial within 70 days. The lawyer for the
3 government and your lawyer have agreed not to count the time
4 between today and January 21st in those 70 days.

5 They say that they need this extra time so they can
6 talk about your case and see if they can reach an agreement
7 without the need to go to trial.

8 Do you want to have the time between now and
9 January 21st excluded; that is, not counted?

10 THE DEFENDANT: Yes, I do.

11 THE COURT: All right. So I find that the ends of
12 justice are served by excluding the time between now and
13 January 21st and I'll sign this order. Is anything happening
14 on January 21st?

15 MS. REID: Yes, Your Honor. We have a status
16 conference at 9:45 that day in front of Judge Cogan.

17 THE COURT: Okay. All right. And I know that the
18 defendant was arrested in Texas but I want to make sure that
19 there was consular notification?

20 MS. REID: Yes, Your Honor.

21 THE COURT: Okay. Great. Is there anything else,
22 Mr. Castro?

23 MR. ROHBACK: No, Your Honor. Thank you.

24 THE COURT: And from the government.

25 MS. REID: No, Your Honor. Thank you.

1 THE COURT: All right. Thank you very much. We're
2 adjourned.

3 MR. DeCASTRO: Thank you, Your Honor.

4 (Proceedings concluded at 2:41 p.m.)
5

6 I, CHRISTINE FIORE, court-approved transcriber and
7 certified electronic reporter and transcriber, certify that
8 the foregoing is a correct transcript from the official
9 electronic sound recording of the proceedings in the above-
10 entitled matter.

11
12 

13 _____ December 13, 2022

14 Christine Fiore, CERT
15 Transcriber
16
17
18
19
20
21
22
23
24
25